

LABOR STANDARDS INFORMATION SERIES WISCONSIN LABOR STANDARDS LAWS

The Wisconsin Department of Workforce Development administers a number of labor standards laws which vary considerably in their coverage and requirements.

Employers covered by these standards also may be subject, in some cases, to similar federal laws and regulations as well. In cases where the laws contain different requirements and the state regulations are more stringent, the department is required by law to enforce the state regulations. Federal laws do not preempt state regulations in these cases.

The following information summarizes Wisconsin's labor standards requirements that were in affect at the time this pamphlet was published. Requirements may change due to changes in state laws or rules, or as a result of judicial or administrative interpretations. The Equal Rights Division can explain any changes, which may have occurred since this pamphlet was printed.

Subjects are listed below in alphabetical order.

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Not All workers are protected. How these various labor standards apply in specific cases depends on some or all of the following conditions:

- Type of industry
- Type of work performed
- How employed (contract, commission, etc.) and
- Employee's age

BUSINESS CLOSING LAW

Employers with 50 or more employees in the state which are involved in a business closing or mass layoff are required to give 60 days notice to DWD, the employee, the union and the highest official of the town, village or city in which the employer is located.

CESSATION OF HEALTH CARE BENEFITS

Employers with 50 or more employees in the state must provide 60 days advance notice to any affected employees, retirees, or their dependents, when they decide to cease providing health care benefits.

This provision applies to situations where employers completely eliminate their entire package of health care benefits for broad categories of workers or retirees. It does not apply to employment termination of individuals or to modifications of continuing plans.

EMPLOYMENT OF MINORS

Minors under age 12 can not be employed at any time.

The state requires every employer who hires a minor ages 12 through 17, or who permits a minor to work at any “gainful occupation,” to ensure that the employer has a valid work permit, issued by the state, for that minor. The only exceptions are agricultural work, apprenticeships, domestic service, public entertainment, and volunteer work for non-profit organizations.

Minors also are protected by other laws and regulations which restrict their hours of labor, the time of day they may work, and the types of work they may do, depending on their ages.

Because of the length and complexity of these rules, please refer to the “The Wisconsin Employment of Minors Guide” (DWD-ERD-4758) for more details. The guide is published by the Equal Rights Division.

The complete child labor rules (Chapter DWD 270) may be purchased at Document Sales & Distribution, 202 S. Thornton Ave., Madison, between the hours of 7:30 a.m. and 4 p.m. Monday-Friday, for a small fee. For mailed orders, the address is P.O. Box 7840, Madison, WI. 53707-7840. Payment must accompany orders. Charge card orders may call 1-800-DOC-SALE.

EMPLOYMENT OF MINORS - LIQUOR

Wisconsin restricts the employment of minors under age 18 wherever liquor is sold, with certain exceptions.

The only exceptions are: Minors 14 years and older may be employed in:

- Establishments where liquor is dispensed if the youth are not involved in serving, selling, giving away or otherwise dispensing liquor. These jobs may be in such establishments as hotels, motels, summer resorts, clubhouses, bowling alleys and restaurants. Minors in this age group may work as bus boys or girls in clearing tables, or as waiters or waitresses but can not take drink orders, and the liquor must be handled and served by an adult.
- Stores and wholesale warehouses in which liquor is sold only in sealed packages for consumption off the premises if the minor does not make the sale, and a licensed operator is present all times the minor is employed.

There are additional state laws and local ordinances, which restrict the access of minors to places where beer and liquor is present. They are administered by other agencies, and questions should be directed to them.

EMPLOYER RETALIATION AGAINST WORKERS

Employers are prohibited from retaliating against any employee who:

- Files a complaint
- Attempts to enforce a right permitted by statute
- Testifies in a case or
- Assists in a case under the state's labor standards laws, such as child labor, minimum wage, hours of work and overtime, wage payment and collection, and prevailing wage rate laws.

This law's protections also apply if an employer takes an adverse employment action against the employee because that employer believes the employee has exercised any of the above rights. Persons who need

further information concerning protection under the state's retaliation provisions should contact the Equal Rights Division.

FAIR EMPLOYMENT

The Wisconsin Fair Employment Law prohibits discrimination in all areas of employment against any qualified person because of sex, race, disability, age (40 and over), creed, color, national origin, ancestry, sexual orientation, marital status, arrest and conviction record, military status, use of lawful products and genetic testing. The Fair Employment Law also regulates the use of honesty tests by employers. Copies of Wisconsin's Fair Employment Law (ERD-4531) may be requested directly from the Equal Rights Division.

FAMILY AND MEDICAL LEAVE LAW

Wisconsin's Family and Medical Leave Law directly covers employers with 50 or more permanent employees and employees of those employers who have been employed for the prior 52 weeks, and have worked at least 1,000 hours during that period. For covered employees, the law requires that employees be allowed six weeks of leave for the birth or adoption of a child. Two weeks of leave to care for a parent, child or spouse with a serious health condition and two weeks of leave for the employee's own serious health condition. For a copy of the law, ask the Division for ERD-7985.

MEAL PERIODS

Employers are not required to provide meal periods to adult employees, but it is recommended in the law that employers provide 30 minutes or more for a meal period. However, employers must provide meal periods to all employees under age 18.

Meal periods provided to minors must be at least 30 minutes in length, and reasonably close to the usual meal times of 6:00 a.m., 12 noon, 6 p.m. and 12 midnight, or near the middle of the shift.

No minor may be employed for more than 6 consecutive hours without a meal period.

Employers must pay all employees for "on duty" meal periods. An "on duty" meal period is one where the worker is not provided at least 30 minutes free from work, or where the worker is not free to leave the employer's premises.

Employers also are not allowed to require that meals be accepted as part of the worker's wages.

MEDICAL EXAMINATIONS

Employers can require applicants for employment, or employees, to take medical examinations. The employer must pay the costs of those examinations if they are a condition of being hired or remaining employed.

MINIMUM WAGE

Wisconsin sets minimum hourly wage rates which employers must use to pay minors under age 18 and adults.

The Wisconsin law applies to all private and public employers, including non-profit organizations, regardless of whether they are covered by the federal minimum wage law. State and local units of government are also covered.

A separate minimum wage rate exists for employees who receive tips or gratuities from patrons. Employers may pay wages under the schedule for "tipped employees" if they can establish by payroll records that, when tips and wages are added together at the end of a pay period, they at least equal the general minimum wage rate. Deductions also may be made for board and lodging, within limitations, which vary by type of employment and the employee's age.

Subminimum wages are authorized only to employers licensed by the department who employ persons with disabilities, operate rehabilitation facilities, or participate in bona fide student-learner programs.

The rates set for such persons are fixed in relation to their ability, as determined by the department.

Subminimum wages also may be paid to student-employees of private colleges and universities for the first 20 hours of work each week. After that limit, the full minimum wage must be paid. The minimum wage rates and rules are revised periodically by administrative rule.

ONE DAY OF REST IN SEVEN LAW

The law provides that all employees in these establishments must be given 24 consecutive hours of rest in each calendar week.

However, the law does not provide that the rest must be given every 7 days. For example, an employer may legally schedule work for 12 consecutive days within a two-week period if the days of rest fall on the first and last days of the two-week period.

The "One Day of Rest" Law exempts certain specific employment in factories and commercial establishments from coverage. The department can explain to you which jobs are exempted.

Employers are permitted to ask the department to waive provisions of this law in unusual circumstances. Waivers generally are granted if representatives of both the employer and the employees make the request jointly.

OVERTIME PAY REQUIREMENTS

The state has a general overtime pay requirement. Workers, regardless of age, must be paid 1-1/2 times the regular rate of pay for all hours worked in excess of 40 hours per week, if employed by any of the following. Factories, mercantile establishments, restaurants, hotels, motels and resorts, beauty parlors, retail and wholesale stores, laundries, express and transportation firms telegraph offices and telephone exchanges.

Exempted from overtime pay requirements are certain administrative, executive, and professional employees, certain outside sales and commissioned employees, taxi cab drivers, certain employees of motor carriers who are covered by federal regulations, salespersons, parts personnel, and mechanics employed by motor vehicle dealers, and apprentices receiving classroom instruction.

There is no required daily overtime pay for adults.

Whether daily overtime must be paid to minors under age 18 depends on whether the work is agricultural or nonagricultural, if school is in session, and how old the minor is.

For additional information, please ask the Equal Rights Division for its "Employment of Minors Guide" (ERD-4758).

The Federal Minimum Wage Law, which is administered by the U.S. Dept. of Labor, may set overtime pay requirements for occupations or industries exempted by state law. **It is the responsibility of the employer to determine liability under both laws.**

Contact the:
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WAGE & HOUR DIV
740 REGENT ST
.SUITE 102
MADISON WI 53715

Phone: (608) 441-5221

PENALTIES AND ENFORCEMENT

There are different penalties for violating different laws and rules. In general, however, violators may be assessed between \$10 and \$100 a day for each day of each violation of most of Wisconsin's labor standards laws.

In addition, employers also may be required to pay any wages that may be due the employee because of the violation.

Employers also may be penalized for employing a minor without a work permit or violating other child labor regulations.

Furthermore, if the violation resulted in the injury or death of a minor, double compensation may be assessed under the Worker's Compensation Law against an employer who employed the minor without a work permit. Treble compensation may be assessed when a minor was injured while employed in a job prohibited by statute, regardless of whether a work permit was issued. The courts, upon request of the State Justice Department and the State Department of Workforce Development and can only levy these penalties after investigation and attempts to settle disputes.

PERSONNEL RECORDS OPEN TO THE EMPLOYEE

Employers must permit employees to inspect certain personnel documents within 7 working days of a request. Employers may require that the request be in writing. Employees also have the right to obtain copies of these documents. Please refer to section 103.13, Wisconsin Statutes for more detailed information.

THE PREVAILING WAGE LAWS

In accordance with these laws, the Division conducts annual surveys to determine the wage rates, which prevail on public works projects that are bid or negotiated by the state or any local governmental unit. Division staff inspect employers' payroll records to ensure that workers are properly classified, that they are receiving the appropriate prevailing wage rate and that they are receiving overtime for work performed in excess of the prevailing hours of labor.

PRIVATE EMPLOYMENT AGENCIES

The department licenses applicant paid fee private employment agencies operating in the state, and sets standards for them in their fees, advertising, bonding and periodic reporting on activities.

Employer paid fee agencies must register with the Department annually even though they are not regulated under the law.

Temporary help agencies, labor union hiring halls, theatrical and booking agencies and employment counselors are not subject to this law.

Applicant paid fee agencies which meet state standards are issued a license to operate. The Equal Rights Division can tell you whether or not a private employment agency is licensed or registered with the department.

RECORDS WHICH EMPLOYERS MUST KEEP

Employers must keep the following time & pay-roll records for at least 3 years for each employee:

- Name and address
- Date of birth
- Dates employment began and ended
- Time work began and ended each day
- Total hours worked daily and weekly
- Rate of pay for each payroll period
- Wages paid each payroll period
- Amount and reason for each deduction
- Output of employee, if paid on other than a time basis.

In addition, the time each meal period began and ended must be recorded when meal periods are required for employees, or when meal periods are deducted from work time. This information is not required when work is such that production or business activity ceases on a regularly scheduled basis.

REHABILITATION FACILITIES

Rehabilitation facilities employ persons with disabilities. The department is authorized to permit them to pay their employees less than the minimum wage rates established by the state. Please refer to the MINIMUM WAGE section for details.

REST PERIOD/COFFEE BREAKS

State law does not require that brief rest periods, or coffee breaks, be provided to employees. Such matters are to be determined between the employer and the employee directly.

Rest periods or breaks of less than 30 consecutive minutes each shift are considered work time, and employers may not deduct from a worker's wages for them.

SEATS FOR WORKERS

State law requires that manufacturing, mechanical and commercial establishments provide seats for workers when they are not actively engaged in work duties.

SICK LEAVE

Employers are not required by Wisconsin law to grant sick leave to their workers, whether with pay or without. There are special exceptions in the Family and Medical Leave Law.

TERMINATION NOTICES/SEVERANCE PAY

Unless termination of employment is covered under the advance notification requirements found in the Business Closing Law, there is no requirement either the employer or the employees give that notice. See the Business Closing Law section.

Factory employers ONLY may be subject to a payment penalty for discharging without notice if they require a like payment penalty from employees who quit without notice. There must be advance agreement as to this notice requirement, either written or implied.

VACATION

Employers are not required by Wisconsin law to grant vacations to their workers, whether with pay or without. Such matters are determined entirely by written or unwritten agreements between the employer and the employee. However, where such benefits have been agreed upon, the department may take action as part of a wage claim

WAGE CLAIMS

Employees have the right to file a wage claim with the department for unpaid wages if there is a dispute with the employer in the amount of wages owed, or if an employer fails to pay the wages agreed upon for the time actually worked. If the employer refuses to pay wages earned on the regular established payday, the employee should request payment.

If the employee doesn't receive the payment after 6 days, the employee may file a claim with the department. Once a claim is filed, the department will seek to resolve the matter with the employer.

The department may take action on the following types of wage claims:

- Salaries
- Severance pay
- Commissions
- Dismissal pay
- Holiday pay
- Bonuses
- Illegal deductions from wages
- Vacation pay
- Supplemental unemployment compensation benefits when required under a binding collective bargaining agreement.
- Other similar advantages agreed upon between the employer and the employee, or provided to employees as an established policy.

The department may **not** have authority to take legal action on some claims, including:

- Unpaid bills owed to the employee
- Claims made by independent contractors

- Claims already filed in court
- Out-of-state employers, in some cases.

Union members who wish to file wage claims will be advised by the department to exhaust contractual remedies available through the union before filing a claim.

Persons filing a claim for wages must do so on a form furnished by the department's Equal Rights Division. There is a 2-year statute of limitations on the collection of wage claims. **Wages must be claimed within 2 years of the date earned.**

WAGE DEDUCTIONS

Employers are required to state clearly on each employee's paycheck, pay envelope or other accompanying paper the number of hours worked the rate of pay, and the amount of, and reason for, each deduction.

The only exception is where the employee has requested a deduction for personal reasons. In those cases, the deduction may be labeled "miscellaneous" or similarly disguised.

Employers may use a reasonable coding system in listing all deductions.

Employers can only deduct for loss, theft, damage, or poor workmanship as provided under section 103.455 Wisconsin Statutes.

WAGE PAYMENT AND COLLECTION

Employers must pay all workers at least once a month. Employers engaged in logging operations and farming are exempted from this requirement, but must pay no less often than at regular quarterly intervals.

Employees who quit or are discharged from their jobs must be paid in accordance with the employer's regularly established payroll schedule.

WEIGHT LIMITS

Wisconsin law does not set any limits on the amount of weight that employees can be required to lift or carry in their jobs. However, employers have the responsibility to make sure that the weights employees lift or carry are reasonable, and are within the capabilities of each worker. Employers are required to carry worker's compensation insurance, and employees who are injured in connection with their work may file claims.

To file claims or complaints, or to obtain more information about any of these provisions, contact the department's Equal Rights Division at either of these locations.

EQUAL RIGHTS DIVISION

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Offices are open 7:45 to 4:30 p.m. Monday through Friday.

Department of Workforce Development is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format or need, it translated to another language, please contact us in Madison at (608)264-8752 or in Milwaukee at (414) 227-4081.

Website: <http://dwd.wisconsin.gov/er/>